IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY EIGHTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION Nos : 11128 & 11220 of 1994

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W.P.No.11128 of 1994:

Between:

1. Guddati Venkata Rayudu S/o Ramamurthy, aged 59 years, Cultivation R/o Gollavanithippa, Bheemavaram Mandal, West Godavari District,
2. Polanati Dhana Raju S/o Venkataratnam, aged 70 years, R/o Gollavani Thippa, Bheemavaram mandal, West Godavari District,
3. Mente Nageshwar Rao S/o Satyam, aged 48 years,
4. Ramayanam Ramchandra Rao S/o Subba Rao, aged 40 years,
5. Akula Sreedevi W/o Thrinadulu, aged 35 years,
6. Koppineedi Venkat Rao, S/o Venkat Narsaiah, aged 75 years,
7. Kopparthi Venkata Raju S/o China Ramaiah, aged 65 years,
8. Kopparthi Chandra Rao S/o China Ramaiah, aged 54 years,
9. Kopparthi Satyanarayana S/o China Ramaiah, aged 50 years,
10. Guddati Surya Rao S/o Adayya, aged 48 years,

11. Guddati Laxmi Saraswathi W/o Veera Venkata Rama Rao, aged 49 years,
12. Guddati Seshamma W/o Venkat Rayudu, aged 54 years,
13. Ramyanam Yedukondalu, S/o Subba Rao, aged 35 years,
14. Kopparthi Rama Rao S/o Venakta Raju, aged 45 years,
15. K.Nageshwar Rao S/o Sreerama Murthy, aged 60 years,
16. Polanati Venkateswar Rao S/o Dhanaraju, aged 40 years,
17. Guddati Thrimurthulu S/o Adayya, aged 38 years,
18. Guddati Adayya S/o Ramaiah, aged 75 years,
19. Akula Chinta Raju S/o Tataiah, aged 40 years
20. Guddati Krishna Rao S/o Adayya, aged 32 years,
21. Koppineni Nagamani W/o Venkat Narsaiah, aged 50 years,
22. Guddati Gopala Krishna S/o Chandraiah, aged 55 years,
23. Guddati Satyanarayana S/o Chandraiah, aged 30 years,
24. Sunkara Mohana Rao S/o Subba Rao, aged 50 years,
25. Guddati Laxmi Tulasi W/o Venkat Rama Rao, aged 30 years,
26. Uppuluri Bhaskar Rao S/o Venkteshwar Rao, aged 40 years,
27. Adapala Ratnamala W/o Bhaskar Rao, aged 50 years,
28. Ganna Bathula Krishna Rao S/o Venkat Ramaiah, aged 60 years,
29. Sunkara Subba Rao S/o Tataiah, aged 80 years,
30. Budhala Chinta Raju S/o Pullaiah, aged 75 years,
31. Tholeti Ramanamma W/o Nagabhushanam, aged 65 years,

32, Guddati Rambabu S/o Rama Krishna, aged 25 years,

33. Guddati Satyavathi W/o Rama Krishna, aged 42 years,

34. Yerranki Prahladudu S/o Seshagiri Rao, aged 30 years,

35. Torram Peddi Raju S/o Buchaiah, aged 35 years,

(All are residents of Gollavanithippa, Bheemavaram mandal,

West Godavari District)

..... PETITIONERS

AND

1. State of Andhra Pradesh rep. by Secretary,

Revenue (Assignment-I) Department,

Secretariat Buildings, Hyderabad.

2. District Collector, West Godavari District, Eluru,

3. Revenue Divisional Officer, Narsapur, West Godavari District,

4. Mandal Revenue Officer, Bhimavaram, West Godavari District,

5. Village Administrative Officer, L.G.Padu, Bhimavaram mandal, W.G.Dist.

6. The Circar Agricultural Development Corporation Ltd. Rep. by its

Managing Director, Dr.M.S.Sastry, Sreerampuram, Bhimavaram,

W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction especially in the nature of a writ of mandamus declaring G.O.Ms.No.466, dated 20-05-1994 issued by the first respondent as illegal and void and directing respondents 1 to 6 desist from acting in pursuance thereof.

For the Petitioners:MR.V.L.N.G.K. MURTHY, Advocate.

For the Respondent : GP FOR ASSIGNMENT

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W.P.No.11220 of 1994:

Between:

1. R.Subba Rao S/o Venkataratnam, aged about 55 years,

2. R.P.V.Kumar, being minor, represented by his father and guardian

Rama Rao, aged about 13 years,

3. P.B.K. Satyavathi W/o Sivaram, aged about 30 years,

4. P.Ranga Rao, S/o Vanamaiah, aged about 34 years,

5. R.V.V.B.S. Lakshmi W/o Rama Rao, aged about 30 years,

6. R.Ramarao, S/o Subbarao, aged about 35 years,

7. R.V.Paparao, S/o Pedda Venkayya, aged about 30 years,

8. P.Satyanarayana S/o Kondalal Rao, aged about 32 years,

9. R.Jagannadham, S/o Subbarao, aged about 30 years,

10. R.Ramalakshmi, W/o Jagannadham, aged about 28 years,

11. R.Nagamani, W/o Subbarao, aged about 35 years,

12. R.T.Vijayalakshmi, S/o Subbarao, aged about 19 years,

13. P.Prakasarao, S/o Vanamaiah, aged about 40 years,

14. R.J.Prasunamba D/o Subbarao, aged about 21 years,

15. M.Dandu, S/o Suranna, aged about 30 years,

16. R.Venkanna S/o Somayya, aged about 25 years,

17. R.Narasimha Rao S/o Somayya, aged 35 years,

18. R.Somaiah S/o Venkanna, aged 50 years. (Died)

19. R.Sreeramulu, S/o Somaiah, aged 30 years,

20. R.Ramudu, S/o Somaiah, aged 40 years,

21. P.Sivarao, S/o Venamaiah, aged about 30 years,

22. P.Venkateswara Rao S/o Apparao, aged 42 years,

23. Jaddu Venkat Reddy, S/o Apparao, aged 42 years,

24. Kollati Peddiraju S/o Pentaiah, aged 60 years, residing at Pusalamuru village, Bhimavaram taluq, W.G.District.

25. Sunkara Mahankali S/o Seshaiah, aged 30 years,

26. Ramayanam Sree Rama Murthy, S/o Ramaswamy, aged 42 years,

27. Sunkara Ranga Rao, S/o Seshaiah, aged 35 years,

28. R.Panduranga Rao, minor, rep. By his Guardian Rama Rao, S/o Ramarao, aged 11 years,

29. Kopparthi Venkata Ratnam, S/o Adinarayana, aged 55 years,

30. G.Venkayya, S/o Chinasubbaiah, aged 60 years. (Died)

31. K.Venkataratnam, S/o Narsaiah, aged 55 years,

32. U.Ravamma W/o Venkanna, aged 50 years. (Died)

33. R.Pallaiah, S/o Sreeramulu, aged 60 years,

34. Illa Veeranna S/o Venkanna, aged 70 years. (Died)

35. K.Someswararao, S/o Venkataratnam, aged 30 years,

36. K.Alivelu Manga Tayaru, W/o Nageswara Rao, aged 35 years,

37. D.V.Mallikarguna Rao, S/o Venkateswararao, aged 20 years,

(Petitioners 1 to 23 and 25 to 37 are residents of Gutlapadu, Bhimavaram Taluk, W.G. District)

38. G.Narsimham S/o Balambhotlu (Died per L.Rs. P-48 to P-51)

39. R.Narasimha Murthy S/o Gangaiah, aged 75 years,

40. R.Ramarao, S/o Narsimha Murthy, aged 45 years,

41. R.Gangaiah S/o Narsimha Murthy, aged 42 years,

42. R.Vishnu Bharathi, W/o Gangaiah, aged 37 years,

43. T.Venkateswara Rao, S/o Prakash Rao, aged 40 years,

44. R.Lakshmi Narasamamba, W/o Rama Rao, aged 38 years,

45. Thoram China Venkateswararao, S/o Prakash Rao, aged 37 years,

46. Thoram Kanakadurga Venkata Satyavathi, S/o Venkateswara Rao, aged 30 years,

47. Thoram Srinath Babu, S/o Prakasharao, aged 45 years,

(Petitioners 39 to 47 are residing at Gollavani Thippa, Bhimavaram, mandal, W.G. District.

48. G.S.S.B.Sarma S/o late G.Narasimham, aged about 62 years, Pensioner

R/o Royapatah, Narsapur, W.G.District,

49. G.Dwarakanath S/o late G.Narasimham, aged about 52 years, Senior

Lecturer, S.B.N.Y.H.Degree College, Kasibugga, Srikakulam District,

50. G.Venkataramana Murthy S/o late G.Narasimham, Electrical Engineer,

Aged about 47 years, Resident of Manugur, Khammam District,

51. G.Naga Sudhakar S/o late G.Narasimham, aged about 45 years, State

Bank of India, Putrela, Near Nuzvidu, Krishna District.

52. Guddati Kasi Annapurna, w/o. Venkayya, aged 70 years.

53. Dasari Nagamani, w/o.Venkateswara Rao, aged 45 years.

(R.52 & R.53 both are residents of Gutlapadu (Revu), Gutlapadu Post,

Bhimavaram Mandal, West Godavari District)

54. Ungarala Venkanna, s/o. Mallayya, aged 40 years,

R/o.Gutlapadu(Revu) Gutlapadu Post, Bhimavaram Mandal, W.G.Dist.

55. Smt. R.Subbayyamma, w/o.late Somaiah, aged 70 years.

56. R.Suryanarayana, s/o.late Somaiah, aged 30 years.

(Pettrs.55 and 56, R/o.Gutlapadu(Revu)

Gutlapadu Post, Bhimavaram Mandal, W.G.Dist.)

57. Illa Subba Rao, s/o.Veeranna, aged 50 years.

58. Illa Satyam, s/o.Veeranna, aged 40 years.

59. Illa Paddirajulu, s/o.Veeranna, aged 20 years.

60. Illa Ganapathi, s/o.Veeranna, aged 45 years.

61. Illa Surya Rao, s/o.Veeranna, aged 35 years.

62. Illa Sahadevudu, s/o.Veeranna, aged 30 years.

63. Illa Krishna, s/o.Veeranna, aged 25 years.

(Pettrs.57 to 63 R/o.Gutlapadu(Revu)

Gutlapadu Post, Bhimavaram Mandal, W.G.Dist.)

(Petitioners 48 to 51 are brought on record as L.Rs. of the deceased

petitioner No.38 as per Court Order dated 22.6.2004 in

WPMP NO. 12927 of 2004)

(Petitioners 52 and 53 are brought on record as LRs of

petitioner No.30 as per Court order dt.28-6-2004 made

in WPMP.No.9558 of 2004)

(Petitioner 54 brought on record as LR of petitioner No.32 as per

Court order dt.28-6-2004 made in WPMP.No.9559 of 2004)

(Pettrs.55 & 56 brought on record as LRs of petitioner No.18

as per Court order dt.28-6-2004 made in WPMP.No.9562 of 2004.

Petitioner Nos.20, 17, 19 and 16 in the writ petition are the LRs of

Petitioner No.18).

(Pettrs.57 to 63 brought on record as LRs of petitioner No.34

as per Court order dt.28-6-2004 made in WPMP.No.9563 of 2004)

..... PETITIONERS

AND

1. State of A.P., rep. Its Principal Secretary to Government,

Revenue(Assignment-I) Dept, Secretariat Buildings, Hyderabad.

2. District Collector, West Godavari District, Eluru,

3. The Circar Agricultural Development Corporation Ltd. Rep. By its

Managing Director,

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue a Writ of Certiorari or other appropriate Writ, direction or order calling for the records relating to and quashing G.O.Ms.No.466, dated 20-5-1994 issued by the Principal Secretary to Government, Revenue (Assignment-I) Department, Government of A.P., Hyderabad, first respondent herein.

For the Petitioners:MR.A.VEERASWAMY, Advocate

For the Respondents : GP FOR ASSIGNMENT

The Court Made the Following :

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COMMON ORDER :

The dispute in these two writ petitions is in relation to lease of an extent of Acs.1500-00 Government land in R.S.No.65/A of Losaragutlapadu village, Bhimavaram Mandal, West Godavari District. The then Government of Madras, vide order being Government Proceedings No.Misc.37, Land Revenue, dated 11-1-1921 sanctioned assignment of the land in favour of Circars Agricultural Development Corporation Limited, sixth respondent herein with permission to irrigate the land by pumping water from Yenamadurru drain adjoining the land. The Government imposed the following conditions while sanctioning the assignment.

1. That Government can at any time direct the water in any way it pleases and can at its pleasure refuse the use of water.

2. That the company shall be liable for the water rate that may be fixed from time to time by

the Government in respect of the lands irrigated under the said installation project.

3. That the company or their servants or their tenants or persons irrigating lands under the said project through the company shall put no cross bunds across the drain or interfere with the course of the drain in any way whatsoever.

4. That the company shall obtain the previous sanction of the Executive Engineer, Godavari Western Division, before any cut or breach in the bank or margin of the drain is made for water to be taken to the pumping installation.

5. That the company shall in no case claim any compensation for loss or damages sustained by the action of the Government or their servants.

6. That an efficient pumping plant suitable to irrigate most of the land shall be put up within three years from the date of the grant.

7. That the design of the pumping installations and its subsidiary works shall be approved by the Executive Engineer.

8. That the lands shall revert to Government in case the company fails before they are actually brought under wet cultivation.

9. That the land shall not be alienated by way of sale, gift, mortgage or lease in perpetuity nor shall the land ceases to be owned by the Company owing to sale by process of law or otherwise.

10. That the breach of any of these conditions shall render the grant null

and void and entitle Government to re-enter and take possession of

the land.

Sixth respondent herein was cultivating the land by leasing out to farm servants. According to the petitioners, by resolution dated 15-11-1958, the Corporation leased out the land to shareholders in proportion to their shares for a period of ninety eight years. In this manner, an extent of Acs.1316-00 of land was leased out to shareholders. In due course of time, the shareholders subleased the land to third parties. All the petitioners in these two writ petitions are either shareholders or sub-lessees. The petitioners in W.P.No.11220 of 1994, however, allege that they are shareholders only. Whatever be the case, it appears, the shareholders as well as sub-lessees have also shown the land under their occupation in the declarations filed by them under Section 8 of the Andhra Pradesh Land Reforms (Ceiling on Agricultural Holdings) Act, 1973 (for brevity 'the Act') and its precursor Legislation.

It was brought to the notice of the Government that by leasing out the land to shareholders for a period of ninety eight years, sixth respondent herein violated the conditions of lease. Therefore, the Government issued a show-cause notice on 13-10-1988 for violation of conditions of assignment. The Managing Director of sixth respondent submitted an explanation disputing the allegation of unauthorized lease. In the meanwhile, some of the lessees converted the land under their occupation into fish tanks, impeaching which the Managing Director of sixth respondent filed a writ petition being W.P.No.6574 of 1992. This Court directed the District Collector to enquire into the matter regarding digging of fish tanks. The Collector was to find out

whether the object of the grant made by the Government is frustrated and whether the land should be resumed. An enquiry was conducted and after considering the report, the Government came to the conclusion that Condition No.9, which prohibits alienation by way of sale, gift, mortgage or lease in perpetuity, has been violated and accordingly, decided to cancel the assignment resuming the land.

The Government, thereafter, issued a show-cause notice dated 26-10-1993 only to the Managing Director of sixth respondent, which was duly replied by the Managing Director. After considering the reply of the Managing Director, the Government issued orders in G.O.Ms.No.466, Revenue (Assignment) Department, dated 20-5-1994 cancelling assignment of the land in favour of sixth respondent and further directing the District Collector, West Godavari, second respondent herein to resume the land and assign the same in favour of the eligible Sivai Jamadars. Though the Government Order was sent to the Managing Director, as the petitioners herein would be directly affected by the orders of the Government, they invoked the jurisdiction of this Court under Article 226 of the Constitution. This Court admitted the writ petition being W.P.No.11128 of 1994 on 24-6-1994, but, having regard to the submission that the land was resumed by the Government by then, passed order of *status quo*. This Court also directed the petitioners herein not to convert the land, except cultivating the land for agricultural purpose.

A counter affidavit is filed by the Assistant Secretary to Government on behalf of the respondents, opposing the writ petitions. It is stated that sixth respondent has leased out the land to shareholders, which is in violation of Condition No.9 and therefore, as per Condition No.10 of the grant, and therefore, it is always open to the Government to cancel assignment and resume the land. It is further stated that 53 shareholders have submitted their explanation to the show-cause notice given to the Managing Director of sixth respondent and therefore, there is sufficient compliance with the principles of natural justice. Though the counter affidavit is filed way back on 11-9-1998, no reply affidavit is filed in W.P.No.11128 of 1994.

Learned counsel for the petitioners, Sri V.L.N.G.K.Murthy and Sri B.V.Ramamohan Rao raised two contentions. Sri V.L.N.G.K.Murthy would urge that the lease of land by sixth respondent in favour of the shareholders does not amount to lease in perpetuity. Secondly, it is his submission that even assuming that the transfer of land by sixth respondent in favour of its shareholders amounts to lease in perpetuity without there being a prior notice to the petitioners herein, who are in actual possession and occupation of the land, the Government could not have cancelled the assignment and resumed the land. These submissions are refuted by Sri K.K.Mahender Reddy, learned Government Pleader for Revenue (Assignment).

After hearing the respective submissions at length, I am of the considered opinion

that, at this point of time, it would not be necessary to decide the first question that arises for consideration, namely whether the transfer/lease of the land by sixth respondent in favour of its shareholders is a lease in perpetuity for ninety years violating Condition No.9 ? This question has to be decided, at the first instance, by the Government having regard to the conditions of grant and the resolution of sixth respondent dated 15-11-1958, by reason of which, the shareholders were given lease of the land for their personal cultivation. The validity of such resolution can also be gone into by Government. An incidental question, which may also have to be gone into, is whether the sub-lease by the shareholders in favour of third parties is in violation of the grant made in 1921.

Whether the principles of natural justice insofar as the petitioners are concerned have been violated? Insofar as sixth respondent, namely Circar Agricultural Development Corporation Limited, in whose favour the Government granted the land in the year 1921 is concerned, it is nobody's case that the principles of natural justice have been violated. A show-cause notice preceded the issue of G.O.Ms.No.466, dated 20-5-1994 and therefore, the impugned G.O. as such, cannot be invalidated. Insofar as the effect of the Government Order either in depriving the sub-lessees or original lessees (shareholders) of sixth respondent, who were allegedly in occupation and possession is concerned, while resuming the land and dispossessing them, the Government ought to have issued individual notices. There cannot be any doubt that the dispossession of the land allegedly in occupation of shareholders or sub-lessees, would certainly result in civil consequences of depriving limited possessory title. For this reason, this Court is not inclined to countenance the submission of learned Government Pleader that the show-cause notice dated 26-10-1993 issued to the Managing Director of sixth respondent would be sufficient compliance with the rule of ***audi alteram partem.***

In the result, for the reasons above, these writ petitions are disposed of directing first respondent not to give effect to G.O.Ms.No.466, dated 20-5-1994 insofar as the petitioners are concerned unless and until individual notices are issued to all the petitioners regarding the alleged violation of Condition No.9 of the terms of grant. It is made clear, insofar as sixth respondent and the land other than the land leased out to the shareholders (Acs.1500-00 – Acs.1316-00 = Acs.184-00) is concerned, the Government Order is upheld. If all the petitioners are in possession as on today and subject to the condition that all the petitioners are cultivating the land for agricultural purpose only and not for pissi culture or aqua-culture, there shall be *status quo* as on today. The Government may complete the exercise as indicated hereinabove within a period of three months from the date of receipt of a copy of this order.

The writ petitions are accordingly disposed of. No costs.

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(V.V.S.RAO, J.)

Dt.28-06-2004.

Msr.

To:

1. The Principal Secretary, Revenue (Assignment-I)

Department, Govt. of A.P., Secretariat Buildings, Hyderabad.

2. The District Collector, West Godavari District, Eluru,
3. The Revenue Divisional Officer, Narsapur, West Godavari District,
4. The Mandal Revenue Officer, Bhimavaram, West Godavari District,
5. The Village Administrative Officer, L.G.Padu, Bhimavaram mandal, W.G.Dist.
6. 2 CCs to the Government Pleader for Revenue(Assignment-I),

High Court Buildings, A.P. Hyderabd.

7. 2 CDs

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION Nos.11128 and 11220 of 1994

Dt.28-06-2004.

(Msr)